

CHAPTER NO. 26

HOUSE BILL NO. 2379

By Representative McKee

Substituted for: Senate Bill No. 2363

By Senator Miller

AN ACT to amend Chapter 30 of the Private Acts of 1919; as amended by Chapter 610 of the Private Acts of 1919; Chapter 538 of the Private Acts of 1923; Chapter 28 of the Private Acts of 1923; Chapter 206 of the Private Acts of 1925; Chapter 435 of the Private Acts of 1937; Chapter 136 of the Private Acts of 1943 and Chapter 68 of the Private Acts of 1996; and any other acts amendatory thereto, relative to the Charter of the Town of Englewood.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 30 of the Private Acts of 1919, as amended by Chapter 610 of the Private Acts of 1919, Chapter 538 of the Private Acts of 1923, Chapter 28 of the Private Acts of 1923, Chapter 206 of the Private Acts of 1925, Chapter 435 of the Private Acts of 1937, Chapter 136 of the Private Acts of 1943, Chapter 68 of the Private Acts of 1996, and any other acts amendatory thereto, being the charter of the Town of Englewood, is amended by deleting such chapter, as amended, in its entirety and by substituting instead the following language to be the charter of the Town of Englewood:

**ARTICLE I
CORPORATE CAPACITY**

Section 1. Incorporation. That the town of Englewood, in the County of McMinn, and the inhabitants thereof, are hereby constituted a body politic and corporate, under the name of the town of Englewood, and shall have perpetual succession as a municipal corporation, and by the corporate name may sue and be sued, plead and be pled, in all the courts of law and equity in this State.

Section 2. Boundaries. The boundaries of Englewood shall be those fixed by Chapter 30 of the Private Acts of 1919, as amended, and as extended and contracted by ordinances of the City passed under the general law of the state governing annexations and contractions; and as further amended pursuant to the general laws of the State of Tennessee, and any subsequent annexations or detachments of territory made pursuant to law.

**ARTICLE II
POWERS**

Section 1. Powers enumerated. The Board of Commissioners shall have the power to:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of state law, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust; and administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the municipality, its inhabitants, or any part thereof, and, further, may issue debt for these purposes under the state law.

(12) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities and public services to be furnished the municipality and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits maybe enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the municipality and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made in accordance with state and federal law. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and

facilities, and take and appropriate property therefore under the provisions of state law or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, state law or any other manner provided by general laws;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as they maybe provided by general law or by ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health,

morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the municipality, and charge reasonable fees therefore, and provide standards of weights, tests and measures;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a workhouse for the confinement and detention of any person convicted in the Town court of offenses against the laws and ordinances of the municipality who fails to secure the fine imposed upon such person, or contract with the county to keep these persons in the workhouse of the county and provide by that contract and by ordinance for the commitment of these persons to the workhouse so provided until the fines are paid;

(28)

(A) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction.

(B) No fine may exceed fifty dollars (\$50.00) or the maximum allowable under general state law, whichever is greater, for violation of municipal ordinances.

(29) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(30) Call elections as herein provided;

(31) By ordinance, assess, impose, levy and collect impact fees from new land developments within the municipal limits, provided that the impact fees are limited to the reasonably anticipated costs of public improvements generated by such developments, and provided that the impact fee system and formula is prescribed by ordinance;

(32) To make regulations to secure the general health, safety and welfare of the inhabitants, and to require the owners of property to keep, maintain and repair their property in a manner both safe and conducive to the good health, safety and welfare of the citizens of the town. For that purpose the town shall have the right to adopt ordinances requiring property owners at their expense to repair, close or demolish unsafe and unhealthy structures on their property and requiring property owners that the expense to remove from their property unsafe and unhealthy manmade and natural material, including junk motorized and non-motorized vehicles and carriages of every kind and description, debris, trash, litter and garbage, and growth of vegetation, including weeds, trees, vines, grass, and underbrush, and upon the failure or refusal of any property owner to comply with such ordinances, to repair, close or demolish such structures, or to remove from the property such man-made and natural material at the town's expense. The town shall file with the register of deeds in the county where the property lies notice of the town's expense, which notice shall be a lien on the property in favor of the town, second only to liens of the state, county and town for property taxes, any lien of the town, for special assessments, and any valid lien, right or interest in such property duly recorded or perfected, prior to the filing of such notice, and the expenses shall be collected by the town's tax collector at the same time and in the same manner as property taxes are collected; and

(33) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

ARTICLE III ELECTIONS

Section 1. Date of general town election. A general Town election shall be held on the first Thursday in August in each even numbered year.

Section 2. General election laws apply. All elections shall be conducted by the Commissioners of Elections of McMinn County in accordance with the general election laws and this Charter.

Section 3. Voter qualification requirements. Persons meeting the residency requirements prescribed by the election laws of the State of Tennessee and non-residents owning at least fifty percent (50%) fee simple interest in a parcel of real property of at least five thousand (5,000) square feet within the Town of Englewood for a period of six (6) months prior to an election and who are otherwise qualified to vote in State elections in McMinn County shall be eligible to vote in town elections,

provided the person is properly registered in accordance with the applicable laws of the State of Tennessee.

ARTICLE IV BOARD OF COMMISSIONERS

Section 1. Composition, eligibility, election, terms, and re-election.

(a) Composition. There shall be a Board of Commissioners composed of the Mayor and four (4) Commissioners.

(b) Eligibility. Only registered voters of the Town who are bona fide citizens, and residents of the Town, shall be eligible to seek and hold the office of Commissioner or Mayor.

(c) Election and Terms.

(1) The two (2) Commissioners elected in the general Town election held on the first Thursday of August of 2002 shall continue to hold office until their successors are elected in the general Town election held on the first Thursday in August of 2006. The Mayor and two (2) Commissioners elected in the general Town election held on the first Thursday of August of 2004 shall continue to hold office until their successors are elected in the general Town election held on the first Thursday in August, 2008.

(2) It is the intent of this Charter to continue the existing pattern of staggered four year terms for the positions Mayor and Commissioner. The term of office for those Town officials elected in August 2006 and in all even numbered years thereafter shall commence with them taking their oath of office at the first regular meeting of the Board of Commissioners following the certification of the election by the McMinn Commissioners.

(3) The Mayor and any Commissioner shall be eligible for re-election.

Section 2. Compensation; expenses. Until otherwise established by ordinance by the Board of Commissioners, the Mayor and Commissioners shall receive no compensation. Any ordinance establishing or increasing salaries must receive final approval ninety (90) days prior to the next general town election and shall become effective for those officials elected at the next general town election and for the remaining officials elected two (2) years later. The Board of Commissioners may receive their actual and necessary expenses incurred in the performance of their duties of office, if authorized by ordinance.

Section 3. Mayor.

(a) The mayor:

(1) Shall be the chief executive officer of the municipality and shall preside at meetings of the board;

(2) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;

(3)

(A) Shall make temporary appointments of any officer or department head in case of absence, sickness or temporary disability.

(B) The board may confirm the mayor's appointment or otherwise appoint a person to the fill the vacant office unless this duty has been delegated as authorized in this charter.

(4)

(A) May call special meetings of the board upon adequate notice to the board and adequate public notice;

(B) Shall state the matters to be considered at the special meeting and the action of the board shall be limited to those matters submitted;

(5) Shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party unless this duty has been assigned to some other officer of the town by the board;

(6) As a member of the board, may make motions and shall have a vote on all matters coming before the board;

(7) Shall make appointments to boards and commissions as authorized by law.

(b) Unless otherwise designated by the board by ordinance, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(1) Those duties set forth in Article V, Section 1(b) of this charter, if the board does not appoint a town

manager or if someone else is not designated by the board to perform those duties.

(2)

(A) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board;

(B) Nothing in this charter shall be construed as granting a property interest to employees or department heads in their continued employment;

(3) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the board, in accordance with state law;

(4) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance; and

(5) Such other duties as may be designated or required by the board.

Section 4. Vice-mayor.

(a) The Board of Commissioners at the first regular meeting following each regular Town election shall elect a member of the Board to the office of Vice-mayor who shall serve as Mayor when the Mayor is absent or unable to discharge the duties of the Mayor's office, and, in case of a vacancy in the office of Mayor, for the remainder of the unexpired term.

(b) If the Vice-mayor fills a vacancy in the office of Mayor, the remaining members of the Board shall fill a vacancy in the office of commissioner for the unexpired term, and they shall elect from their membership a new Vice-mayor who shall serve until the first regular meeting of the Board of Commissioners following the next regular Town election.

(c) In the absence of the Mayor and Vice-mayor the Board of Commissioners shall designate one of its number to preside at meetings, and who shall retain all of the voting rights of a commissioner.

Section 5. Prohibitions. Holding Other Office. No member of the Board of Commissioners shall hold any other Town, county, state or federal office during the term for which he was elected to the Board of Commissioners. No member of the Board of Commissioners shall hold any other Town office or employment during the terms for which he was elected to the Board of Commissioners. No former member of the Board of Commissioners shall hold any compensated appointive office or employment with the Town until after the expiration of the term for which elected or appointed to the Board of Commissioners. Nothing in this section shall be construed to prohibit the Board of Commissioners from selecting any current or former member of the Board of Commissioners to represent the Town on the governing board of any regional or other intergovernmental agency.

Section 6. Vacancies; forfeiture of office; filling of vacancies.

(a) Vacancies. The office of Mayor or Commissioner shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. The Mayor or Commissioner shall forfeit that office if the Mayor or Commissioner:

(1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law,

(2) Violates any express prohibition of this Charter,

(3) Is convicted of a state or federal felony, appeals notwithstanding,

(4) Fails to attend three consecutive regular meetings of the Board of Commissioners without being excused by the Board of Commissioners, or

(5) Fails to maintain a bona fide residence within the Town.

(c) Filling of Vacancies. A vacancy in the Office of Commissioner shall be filled for the remainder of the unexpired term, by a majority vote of all of the remaining members of the Board of Commissioners. If the Board of Commissioners fails to do so within sixty (60) days following the occurrence of the vacancy, the Mayor shall fill the vacancy. If the Mayor fails to fill the vacancy within sixty (60) days, either the Mayor or any two Commissioners shall notify the McMinn County Election Commission, who shall call a special election to fill the vacancy for the unexpired term. A special election shall be held not sooner than seventy-five (75) days and not later than eighty (80) days thereafter, and shall be governed by the general election laws of

the state, except that no special election shall be held within one hundred and eighty (180) days of the next regular election.

Section 7. Investigations. The Board of Commissioners may make investigations into the affairs of the Town and the conduct of any Town department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

Section 8. Time and place of meetings. The Board of Commissioners shall, by ordinance, fix the time and place at which the regular meetings of the Board of Commissioners shall be held. Until otherwise provided by ordinance, the regular meeting of the Board of Commissioners shall be held at 6:00 P.M. on the second Monday of each month. When such day falls on a legal holiday, the meeting shall be on the next following day unless otherwise prescribed by the Board of Commissioners. Whenever in the opinion of the Mayor, the Vice-mayor when acting as Mayor, or of any three (3) Commissioners, the welfare of the Town demands it, the Recorder shall call a special meeting of the Board of Commissioners, by publishing or broadcasting a notice at least twenty-four (24) hours before the meeting. The notice shall state the matters to be considered at the special meeting and the action of the Board shall be limited to those matters.

Section 9. Oath of office. The Mayor and Commissioners, before entering upon their duties, shall each take and subscribe and file with the Recorder an oath or affirmation to support the Constitution of the United States and of the State of Tennessee and the Charter and Ordinances of the Town of Englewood, and that he will faithfully discharge the duties of his office.

Section 10. Quorum. Three (3) members of the Board of Commissioners shall constitute a quorum for the transaction of business, but any smaller number may adjourn from day to day. The affirmative vote of a majority of the members of the Board of Commissioners present and constituting a quorum, will be necessary to adopt any motion, resolution or ordinance, or to pass any measure.

Section 11. Procedure for adopting ordinances. All ordinances shall begin with the clause, "Be it ordained by the Board of Commissioners of the Town of Englewood, Tennessee." An ordinance may be introduced by the Mayor or any of the four (4) Commissioners. The body of ordinances may be omitted from the minutes on first passage, but reference therein shall be made to the ordinance by title and subject matter. Every ordinance shall be passed on two (2) different days, at regular, special or adjourned meetings, with at least one (1) passage occurring at a regular meeting. Copies of the text of every ordinance must be made available to the public during every meeting in which the ordinance is subject to passage. Every ordinance must receive at least, a majority vote on each passage as defined in Section 10 of this Article. Every ordinance shall be effective upon final passage unless by its terms

the effective date is deferred. Every ordinance upon final passage shall be signed by the Mayor, and shall be immediately taken charge of by the Recorder and numbered, copied in an ordinance book and there authenticated by the signature of the Recorder, and filed and preserved in the Recorder's office.

Section 12. Legislative action which must be exercised by ordinance. Except as otherwise provided by general law or this Charter, legislative action of the Board of Commissioners shall be by ordinance when granting, renewing or extending public franchises; creating, abolishing or combining departments or offices; authorizing the borrowing of money; regulating the rate charged for its services by a public utility; fixing fees, service charges and utility rates; levying taxes; providing a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed; or amending or repealing an existing ordinance.

ARTICLE V TOWN MANAGER

Section 1. Duties of town manager.

(a) The Board of Commissioners may appoint a Town Manager who shall serve at the will and pleasure of the Board. The Town Manager shall report and be responsible to the Board. The Town Manager need not be a resident of the town at the time of his appointment, but must become a resident within ninety (90) days after taking office.

(b) The Board shall, by ordinance, require the Town Manager to perform all of the following duties:

(1) Exercise each and all of the powers enumerated in Article IV, Section 3 (b);

(2) Prepare and submit the annual budget and capital program to the Board for their adoption by ordinance;

(3) Administer the business of the town;

(4) Make recommendations to the board for improving the quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the town;

(5) Keep the board fully advised as to the conditions and needs of the town;

(6) Report to the board the condition of all property, real and personal, owned by the town and recommend repairs or replacements as needed;

(7) Recommend to the board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the town;

(8) Recommend specific personnel positions, as may be required for the needs and operations of the town, and may propose personnel policies and procedures for approval of the board; and

(9) Perform such other duties as may from time to time be designated or required by the board.

Section 2. Vacancy in the office of town manager. During a vacancy in the office of town manager, the Board of Commissioners may appoint an acting town manager, may designate a department head as acting town manager or may assign the duties of the town manager to the mayor.

Section 3.

(a) Appointments and Removals. No member of the Board of Commissioners shall in any manner dictate the appointment or removal of any town administrative officer or employee whom the Town Manager or any subordinate of the Town Manager is empowered to appoint, but members of the Board of Commissioners may express their views and fully and freely discuss with the Town Manager anything pertaining to appointment and removal of such officers and employees.

(b) Interference with Administration. Except for the purpose of inquiries and investigations under Article IV, Section 7, the Board Commissioners or its members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Manager solely through the Town Manager, and neither the Board of Commissioners nor its members shall give orders to any such officer or employee, either publicly or privately.

ARTICLE VI TOWN ATTORNEY

Section 1. Qualifications. The Town Attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

Section 2. Appointment, duties, and compensation. The Town Attorney shall be appointed by the Board of Commissioners and shall

direct the management of all litigation in which the Town is a party, including the function of prosecuting attorney in the Town court; represent the Town in all legal matters and proceedings in which the Town is a party or interested, or in which any of its officers is officially interested; attend all regular Board of Commissioners meetings and any other meetings when requested by the Board of Commissioners; advise the Board of Commissioners, and committees or members thereof, the Town Manager, and the heads of all departments and divisions as to all legal questions affecting the Town's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the Town. His compensation shall be as fixed by the Board of Commissioners and he shall serve at the will of the Board of Commissioners.

ARTICLE VII RECORDER

Section 1. Appointment, compensation, and specific requirements, powers and duties of office. The Recorder shall be appointed by the Town Manager, and he shall unless otherwise provided by ordinance be the head of the department of finance. He shall receive a salary to be fixed by the Board of Commissioners and give such bond to the Town for not less than fifty thousand dollars (\$50,000), or as may be provided by ordinance. The cost of such bond shall be an expense of the Town. When required he shall by his signature and the Town seal, attest instruments signed in the name of the Town and official acts of the Mayor. He shall have power to administer oaths.

Section 2. Shall keep minutes. It shall be the duty of the Recorder to be present at all meetings of the Board of Commissioners and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

Section 3. Shall be custodian of public records, bonds, etc. The Recorder shall have custody of and preserve in his office, the Town seal, the public records, ordinance books, minutes of the Board of Commissioners, contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds (except his own bond, which shall be in the custody of the Mayor), and all other bonds, oaths and affirmations, and all other records, papers and documents not required by this Charter or by ordinance to be deposited elsewhere, and register them by numbers, dates and contents, and keep an accurate and modern index thereof.

Section 4. Shall provide and certify copies of records, papers, etc. The Recorder shall provide, and, when required by any officer or person, certify copies of records, papers and documents in his office and charge therefore, for the use of the Town, such fees as may be provided by ordinance and cause copies of ordinances to be printed, as may be directed by the Board of Commissioners, and kept in his office for distribution.

Section 5. Shall generally supervise and keep records of fiscal affairs. The Recorder as head of the department of finance shall exercise a general supervision over the fiscal affairs of the Town, and general accounting supervision over all the Town's property, assets and claims. He shall be the general accountant and auditor of the Town and shall have custody of all papers, records and vouchers relating to the fiscal affairs of the Town, and the records in his office shall show the financial operations and condition, property, assets, claims and liability of the Town, all expenditures authorized and all contracts in which the Town is interested.

Section 6. Shall be Treasurer. The Recorder shall be the Treasurer of the Town; as such it shall be his duty to collect, receive and receipt for the taxes and all other revenues and bonds of the Town, and the proceeds of its bond issues, and to disburse the same.

Section 7. Shall perform any other duties imposed. The Recorder shall also perform any other duties imposed upon him by this Charter or by ordinance.

ARTICLE VIII ADMINISTRATION

Section 1. Departments, offices, and agencies generally. The Board of Commissioners may establish Town departments, offices, or agencies in addition to those created by this Charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this Charter. Departments, offices and agencies created by the Board of Commissioners may be abolished or combined.

Section 2. Personnel rules. The Board of Commissioners shall adopt personnel rules which may include but not be limited to:

(1) A job classification plan;

(2) A pay plan; and

(3) The hours of work, attendance regulations and provisions for sick leave and vacation leave.

Section 3. Officers, employees. etc., who handle money, shall be bonded. Every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety bond with some surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this Charter. All such bonds and sureties shall be subject to the approval of the Board of Commissioners, and the Board of Commissioners may provide for blanket bonds. The cost of all bonds shall be an expense of the Town.

ARTICLE IX FINANCE

Section 1. Fiscal year. The fiscal year of the Town shall begin on the first day of July and end on the last day of June.

Section 2. Annual departmental budgets required. The adoption of an annual budget for all departments shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

Section 3. Town required to prepare and submit annual budget and explanatory message. At least sixty (60) days before the beginning of the fiscal year there shall be prepared and submitted to the Board of Commissioners a budget for the ensuing fiscal year and an accompanying message. The message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position and include such other materials as deemed desirable.

Section 4. Required content and organization of budget. The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year, and, except as required by law or this Charter, shall be in such form as deemed desirable by the Board of Commissioners.

Section 5. Amendments to budget, when budget must be adopted, and effect of adoption. The Board of Commissioners shall adopt the budget by ordinance. The Board of Commissioners may amend the budget by ordinance, but no amendment shall decrease expenditures required by law for debt service. The budget shall be adopted for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The Board of Commissioners shall also adopt an ordinance establishing a property tax levy.

Section 6. Supplemental appropriations. If during the fiscal year the Head of the Department of Finance certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Board of Commissioners by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 7. Deficits. If at any time during the fiscal year it appears probable to the Head of the Department of Finance that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Board of Commissioners without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Board of

Commissioners shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce appropriations.

Section 8. Transfer of unencumbered appropriations. At any time during the fiscal year the Board of Commissioners may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and the Board of Commissioners may by resolution transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section 9. Lapsing of appropriations. Every appropriation shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

Section 10. Incurrence and discharge of obligations. No payment shall be made or obligation incurred against any appropriation unless the Head of the Department of Finance or an officer designated by him first certifies that an appropriation has been made for that purpose and that there is unexpended and unencumbered in the appropriation for that purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 11. Accounting records and audits. There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the Town shall be required by action of the Board of Commissioners and same be made after the end of each fiscal year by a public accountant skilled in such work. Any taxpayer may file a bill in chancery court to compel the Board of Commissioners to have the audit made if such accountant has not been employed within one (1) month after the end of the fiscal year.

ARTICLE X TAXATION

Section 1. Assessment and levy. All property within the Town not exempt by general law shall be assessed for taxation upon the same principles established in regard to state and county taxation.

Section 2. Due and delinquent dates; penalties and interest. Property taxes shall be payable on and after October 1 in the year for which assessed and shall become delinquent on March 1 following. Unless otherwise provided by ordinance, an interest and penalty of one and one-half of one percent (1-1/2%) per month of the amount of the

delinquent taxes shall also be added on the first day of March, in which the taxes become delinquent, and one and one-half of one percent (1-1/2%) shall be added on the first day of each month thereafter.

Section 3. Collection of delinquent taxes. The Board of Commissioners may provide by ordinance for the collection of delinquent real property taxes by the Recorder as provided by general law, or by the Town Attorney acting in accordance with general laws providing for the collection of delinquent Town or county taxes. If not otherwise collected, the Town Attorney, or other attorney designated by the Board of Commissioners, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency.

Section 4. County may collect taxes. The Town may contract with the county for the collection of Town taxes in accordance with general law.

ARTICLE XI TOWN COURT

Section 1. Town court established. A Town Court is hereby established and granted jurisdiction over all infractions of municipal ordinances of the Town of Englewood.

Section 2. Appointment, qualifications, oath, compensation, and restrictions on office of Town Judge. The Town Judge shall be appointed by the Board of Commissioners at the first regular meeting in September following the regular town election in August of each even numbered year and shall serve until the first regular meeting in September following the next general town election or until his successor is appointed and has taken his oath of office. Qualifications for the Town Judge shall be established by ordinance by the Board of Commissioners. The Town Judge shall be eligible for re-appointment. He shall take the same oath required of the Board of Commissioners. The Board of Commissioners shall establish the compensation of the Town Judge by ordinance. The Town Judge shall not be eligible to hold elective offices for the Town of Englewood.

Section 3. Duties and powers of the Town Judge. The Town Judge shall try all persons charged with violation of the ordinances of the Town. He shall have the power to levy fines, penalties and forfeitures in accordance with such offense and to impose such costs as the Board of Commissioners may by ordinance provide, to issue all necessary process, to administer oaths, and to punish for contempt.

Section 4. Court policies and procedures. The policies and procedures governing the day to day operations of the court shall be provided by ordinance.

Section 5. Town Judge to be the exclusive judge of law and facts. The Town Judge shall be the exclusive judge of the law and facts in every

case before him, and no official or employee of the Town shall attempt to influence his decision except through pertinent facts presented in court.

ARTICLE XII MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Section 1. Corporate existence, existing ordinances and resolutions. The corporate existence of the Town of Englewood is continued. All existing ordinances, resolutions or other actions of the Board of Commissioners not inconsistent with this Charter shall remain in full force and effect until amended or repealed in the manner herein provided.

Section 2. Expiration of terms of elected officers. The Board of Commissioners in office when this Act is ratified shall continue in office as the Board of Commissioners until their successors are elected and qualified.

Section 3. Legal effect of this Act. This Act is declared to be a Public Act, and may be read in evidence in all courts of law and equity. All ordinances and resolutions and proceedings of the Board of Commissioners created by this Charter may be proven by the seal of said Corporation, attested by the Recorder, and, when printed and published by the authority of said Corporation and certified by the Recorder, shall be received in evidence in all courts and places without further proof.

Section 4. Severability. If any article, section, subsection, paragraph, sentence, or part of this Charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not effect or impair any other parts of this Charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent in enacting this Charter that each article, section, subsection, paragraph, sentence, or part be enacted separately and independently of each other.

Section 5. Gender. Wherever, in this Charter, "man, men, him, his" or their related pronouns may appear, either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense (i.e., to include all humankind - both female and male sexes).

SECTION 2. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Englewood. Its approval or nonapproval shall be proclaimed by the presiding officer of Englewood and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.

PASSED: March 24, 2005


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 5th day of April 2005


PHIL BREDESEN, GOVERNOR